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Mine-tailing ponds threaten Dolores River

BY JIM MIMIAGA

Containment ponds holding back 30 years' worth of toxic mine tailings north of Rico are leaking directly into the Dolores River and threaten to flood the watershed with dangerous loads of heavy metals if weakening soil barriers fail, Rico officials said this week.

"It really worries me with this spring runoff, because if the banks fail, the ponds with all of that settled mineral waste will be dumped into the river and probably kill the section through town, plus several miles downstream," said Eric Heil, Rico's town manager and attorney.

"Something needs to be done, and very soon."

The U.S. government, on the recommendation of the Environmental Protection Agency, and the State of Colorado filed a lawsuit in July

1999 against the owner of the mine-tailing settlement ponds for violating the requirements of the federal Clean Water Act.

The now-dissolved Rico Development Corp., its former president, Wayne Webster of Athens, Texas, and its former secretary, Virginia Sell, have been accused in a federal complaint of failing to monitor and report the discharge pollutants including, but not limited to silver, zinc, cadmium, copper and lead into the Dolores River and nearby Silver Creek.

The levels of these minerals being discharged into the river do not meet standards outlined on the discharge permit, which

has now expired, originally issued to the Rico Development Corp. by the Colorado Department of Health and Environment, the complaint says.

The government is asking that the defendants be ordered to comply with the Clean Water Act, obtain and comply with a new discharge permit (the old one expired Jan. 31, 1999), eliminate illegal discharges of wastewater, pay penalties of up to \$25,000 a day for every day they were allegedly in violation of the law, and pay court costs.

Under a permit from the Colorado Department of Health, RDC operated a series of 11 settling ponds draining the long-abandoned St. Louis and Blaine mine tunnels that cut deep into the Rico Mountain Range. If maintained, the system effectively settles out high levels of heavy metals as mineral-rich water

from the mines passes through each pond via pipes until released at safe levels into the Dolores River drainage.

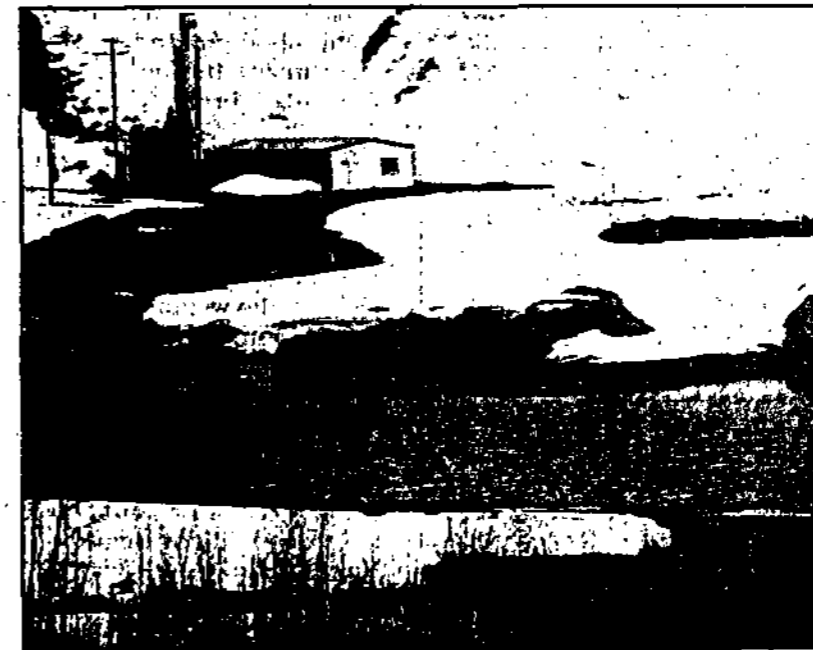
But since 1996 the ponds have not been maintained as required by the discharge permit held by RDC, according to the federal complaint, causing the first and third ponds to back up and spill a steady flow of untreated wastewater over soil berms and into the adjacent Dolores River. Water-quality studies and inspections of the sites prompted the Environmental Protection Agency to seek civil action.

While recent water-quality studies show that that untreated wastewater is being safely diluted downstream, the potential for disaster is huge if nothing is done to repair the system soon, Heil said. And the prospect of thousands of gal-

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HEIL



JOURNAL/JIM MIMIAGA

ORANGE MINERAL discharge flows from an abandoned mine tunnel into a pool near Rico Thursday. Officials are worried that the pools, which can be seen overflowing at lower right, will fail and send dangerous levels of the minerals into the Dolores River.

Water

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lons of contaminated mine sludge suddenly being dumped into the Dolores River does not bode well with Rico's plans to preserve the river corridor through town.

"We're working to preserve the river corridor but we are not willing to and cannot afford the liability at this mine site. The town shouldn't have to pay for the maintenance," Heil said. "I wanted to give the justice department a chance to do their job, but now this has been going on for seven years and we're not seeing any progress.

"We have not seen a lot of attention or interest in this, and that is just really tough to understand."

The mining claims and property owned by RDC were sold to Rico Properties, LLC, in 1994, but the mine-tailing clean-up operations were not supposed to be included in the sale, according to the civil complaint.

However, "the purchase documents and deed mistakenly included, and thereby transferred, ownership of the St. Louis Tunnel and the WTS [waste treatment system] to RP [Rico Properties]," the complaint states.

In response, RDC "simply abandoned the Mine and discontinued operation of the WTS," according to the complaint.

In February 1997, Rico Properties contacted RDC about the discrepancy in the sale document and then executed a "correction warranty deed" to transfer ownership of the two tunnels and the waste-treatment system back to RDC, the complaint says.

However, illegal wastewater discharges continued in violation of the permit, according to the complaint.

From Colorado Highway 145 just north of Rico, rust-colored snow-melt laden with heavy metals can be clearly seen flowing over the pond banks and into the Dolores River.

A nearby wastewater-treatment tower that should be

filled with lime to help neutralize the acidity of the mine water before it reaches the first pond stands empty and abandoned. The opening of the mine entrance collapsed last year, Heil said, causing the water to breach the system of pipes that directs it into the tower and pond system. Fortunately, the unregulated overground flow appears to make it on its own into the first pond.

Southeast of the St. Louis tunnel at the base of Dolores Mountain is the outlet of the Blaine Mine Tunnel, which is situated near Silver Creek, Rico's municipal water source. In 1990, RDC constructed a concrete barrier to redirect that mine's drainage into the St. Louis Mine tunnel and then to the settling ponds in order to prevent contamination of Silver Creek.

That barrier also failed, according to a September 1997 inspection by the Durango office of the Colorado Water Quality Control Division. That report states that "the inspection group observed that the Blaine Tunnel had a discharge of approximately 1-3 gallons per minute of orange-colored liquid from the tunnel into Silver Creek."

According to the complaint, the Blaine Tunnel was eliminated in 1990 as a discharge point for wastewater under the discharge permit.

A sample of the unpermitted discharge found it to have a pH of 2.2/2.3, which is acidic, according to a report by Durango Water District Inspector Greg Brand.

A subsequent inspection of Silver Creek at the point from which Rico draws its municipal water showed normal acid levels, leading Brand to report that the mine drainage was not adversely affecting the town's drinking supply since Rico draws water from a point on the small creek one-quarter to one-half mile upstream from the Blaine Tunnel discharge, according to the report.

The same report also described results of an inspec-

tion of the St. Louis Tunnel, showing that "a large steady flowrate... of turbid orangish-yellow colored liquid" was discharging from the tunnel. The flow splits, with half of it going to the treatment plant and the other half flowing into the treatment tower, which "appeared to be completely shut down and non-operational," with no certified operator or records on site, the report says.

Notwithstanding the wastewater that is now leaking from the first and third ponds, the water at the end of the series of 11 ponds during that 1997 inspection showed acceptable acidity. Despite these acceptable levels, the report concludes with seven suspected violations of the Rico Development Corp. concerning discharge, and recommends that "enforcement action needs to be taken against the permittee (RDC)."

Heil is worried that the court process to determine who is ultimately responsible for the operations of the failing system could take too long. According to the state water-quality report, RDC is disputing ownership and responsibility of the facilities covered under the permit with Rico Renaissance and Rico Properties, LLC.

RDC's attorney did not return phone messages as of press time Friday. EPA attorneys for the federal government could also not be reached for comment Friday.

In the meantime, no one wants to meddle with or repair the system for fear of being held liable if the levee breaks and pollutes the region's primary water source with dangerously high levels of heavy metals, Heil said.

In a letter to Heil dated February 3, Elyana Sutin, the EPA's senior enforcement attorney, set a deadline of March 1 for the parties to reach a settlement. That did not happen, so a 60-day extension has been granted, according to Heil.